

**The Virginia Indigent Defense Commission
Budget Committee Meeting
May 14, 2007**

The meeting was called to order at 12:08pm by the chair, Judge Edward Hanson. Other members in attendance were Karl Doss, designee for Karl Hade; Maria Jankowski, James Towey, (Executive Director of the Crime Commission), designee for Senator Kenneth Stolle; and Jo-Ann Wallace via teleconference. Administrative staff included Laura Still, Diane Pearson, Executive Director, David Johnson; and Deputy Director, DJ Geiger.

The first item on the agenda is to approve the August 9, 2006 budget committee minutes.

Judge Hanson made a motion to approve the August 9, 2006 Budget Committee meeting minutes.

Maria Jankowski seconded the motion.

The motion carried unanimously.

The next item on the agenda is the allocation of new positions.

Mr. Johnson stated that in the budget that goes into effect July 1st, the VA Indigent Defense Commission actually received twenty-six new positions, ten of which are specific positions, eight are going to the capital offices. Each capital office is getting an additional attorney position, which is the equivalent of a senior assistant level position; it's their assistant capital position and also another investigator/mitigation specialist. We want to be able to set up two trial teams in each capital office. This would mean that there would be a capital defender and a senior level attorney, the deputy defender and a senior level attorney, each with a mitigation specialist available to them. The capital defenders feel that one investigator would be sufficient. The mitigation specialists actually have the larger work-load because of the nature of the work.

Those positions have been advertised and the capital defenders are beginning the process of filling those positions. There was no additional space needed in any of the capital defender offices.

Going back to Executive Order 75 which changed the space requirements, all of the capital offices opened before that went into effect. We factored in these new positions; they all still had enough square footage to meet the guidelines. They may have to do some reconfiguring of space but no added space is necessary.

There were two positions which were specifically in the Appropriations Act language. The Standards of Practice enforcement, that's the piece in the code section that required us, first of all to adopt the standards of practice, which went into effect

April 1st, and second to enforce them.

We had our first meeting of the enforcement workgroup a few weeks ago. We have another teleconference meeting June 6th and we'll be reporting the progress to the Commission May 23rd.

We have a really good start on tackling the problem of how to enforce the standards amongst two thousand lawyers. We've got a good frame-work for progress.

The General Assembly specifically allocated \$200,000 of the money they gave us for those positions, not just for the positions but for the whole process. We've got an attorney position we're advertising that is a \$60,000 a year position, which in November will go to about \$68,000 with the scheduled increase, and a support staff person, which will be coming in at about \$35,000. We're interviewing next week for the attorney position. We'd like to get that person in and let that person be involved in selecting the support staff person.

There also is going to be new space that is needed for this. Part of the process would require ultimately to have a hearing, if necessary in a case. We're a little tight in here. This also merges with the training piece because part of the enforcement is making sure people have the training they need. There's some very inexpensive space upstairs. We went to the Department of Real Estate Services and they redid our OSQ which is our Office Space Questionnaire. When we moved in here we actually moved in with a lot less space than we were entitled to. They tell us, with these two new positions that we're entitled to 3,500 square feet more space. We don't want that but there is 2,300 square feet upstairs at \$14 a foot. What we want to do is get a much expanded training room, to start doing more trainings and maybe seat as many as forty people up there.

One of the problems we're having now is we're having to go off-site for a lot of our training. An example is when we had to do training for the new appellate standards recently, over two days we had ninety people in downtown Richmond where we had free space but it was \$16 a day for parking for everyone who came. It's a waste of money when we have to do that. We're having more and more trouble finding space here. The good news is we're going to get a room upstairs we can use to do a lot more training, house the new people and all the files, all with the money the General Assembly appropriated with enough to furnish it and have a little left over.

As to the remaining sixteen positions, which were unspecified for the field offices, we asked all the public defenders to make their pitch to us, as to why they felt they needed new positions. Several said they didn't need new positions as they're having enough trouble filling the ones they have. We did get requests from a number of offices.

We looked at where they ranked in terms of their caseload which was one of the factors in determining who got what but also there are some offices where their caseloads would improve if they were given another position. Looking at Halifax which has the fifth largest caseload, we're giving them one more attorney.

I actually had the circuit court judge, Judge Osborne, who covers Mecklenburg come to town to talk to me because he was so concerned about Mecklenburg. Halifax is one of those offices that when they opened it said we'll put the public defender office here and it will service Mecklenburg thirty eight miles away and Lunenburg twelve miles away because they only have court a couple times a week. Over the years, Mecklenburg now has more cases than Halifax and they're driving that thirty eight miles back and forth. The judge wanted to have a public defender office there but that's not how it works. We may try to find some space there for them to do interviews. His main concern is that indigents are going into those courts being handed a card to now go see your lawyer thirty eight miles away.

We're working on getting another attorney position, we're working on getting space maybe in the court house for interviews. Buddy Ward (Halifax Public Defender) felt that would help them quite a bit. The comment from the judge was that it was really a problem because they only had three lawyers in Mecklenburg. Mr. Johnson's question to him was "you only have three lawyers on the court-appointed list?" and the judge's response was, "no, we only have three lawyers and one is moving next month."

He was very pleased when he was told they were getting a new position. They don't need additional space. They're looking for space in the court house.

Mr. Johnson went on to Chesapeake which is fourteenth on the list and has been open since 2004. They're getting a new position because they've never done traffic court, with an additional position they will be able to do traffic court and will probably move them up. Not one of these offices is requiring additional space.

Leesburg is sixteenth which covers three jurisdictions which is a constant problem. What that office needs is an APD II because they need an attorney to supervise one of those satellite offices. They also have requested a part-time secretary position for one of those satellite offices.

Roanoke has our third highest caseload. We gave them one position last year which was the first position added since 1994, they can use another one and they have the space for it.

Virginia Beach is our fourth biggest caseload and they've requested an APD I and a secretary I and we were able to give them both of those.

Franklin is not a large caseload, it's a small jurisdiction. They've asked for a sentencing advocate because they don't have one. That's really a client service issue and we were able to give them that position. The part-time secretary position is now a full-time position and their caseload justifies that.

Danville is our sixth largest in terms of caseload, they've never had a sentencing advocate and they're now getting one.

Portsmouth is down the list at twenty-two. They've never done traffic court because they don't have anyone to do it. They now have the position to do it.

Hampton is the same situation. They're twentieth and have never done traffic court. This will move them up the list.

For whatever reason when a lot of these offices made the decisions of which courts they should and shouldn't do, traffic court was the one that seemed to make sense to not do, doesn't make a lot of sense. First of all, traffic court has changed over the years. It's another district court. In Richmond, anything that originates from a traffic stop goes through traffic court so there are a lot of felonies going through there. It's also a court we can be very efficient in because the percentage of people not locked up is much higher.

Mr. Johnson went on to say that he's glad to see the offices that weren't doing traffic court are going to start.

Winchester is getting an APD II position; they have two satellite offices in Warren and Shenandoah, which are constant problems. They've used a lot of part-timers in the past. Last year we combined two of the part-time positions to a full-time from one of the jurisdictions. This will give them an experienced person in the other jurisdiction.

Staunton is our number 1 office in terms of caseload. We're giving them another APD I and a half APD I as they requested. They're still going to have the largest caseload per lawyer.

Fredericksburg is number 2, an extremely difficult jurisdiction with a lot of satellite offices and has Stafford County which is really hard to work in. We gave them an APD I and that secretary II position is taking a part-time secretary they've had for many years to full-time.

Norfolk is thirteenth and will be adding traffic court.

In some offices the biggest need was not to add a person but to keep an existing person. Lynchburg which has a dozen or so lawyers didn't have a deputy position. We've given that office the ability to promote a senior assistant to deputy. We took that senior position and gave it to the appellate office, which desperately needed to promote an appellate attorney from II to senior to hang on to that attorney. We took that II position and gave it to Charlottesville as their request was to take an APD I and make it a II. We then took the vacant I position in Charlottesville and gave it to Chesapeake. We actually were able, with these sixteen positions, to impact twenty of the offices.

Because we didn't have space issues with these positions and were able to do a lot of entry level positions, we were able to cover quite a bit. That is incorporated into the budget.

There was no further discussion.

Karl Doss made a motion to recommend to the Full Commission on May 23rd the allocation of the positions as proposed.

Maria Jankowski seconded the motion.

The motion carried unanimously.

The next item on the agenda is the proposed budget.

Mr. Johnson said that the process that was followed was the process that was instituted last year where the public defenders were actively involved. We requested input from all of the public defenders and asked them to look carefully at what their expenditures were in the last year, what they expected their expenditures to be and make requests. We took into account all of their requests and tried to accommodate as much as we could within the limitations and came up with the budget.

With each office the big piece is going to be personnel.

A couple of things to highlight. We already talked about the \$200,000 for the enforcement piece and how we're allocating that. Previously there was \$90,000 of carryforward money which the Commission approved spending on the project to get hand-held scanners in the offices. Warrants are now going to be coded and would allow the support staff to get a lot of information off of that. That is a project that's not ripe yet. We're not going to be able to spend that money the way we wanted to anytime soon, which is fortunate because we have an immediate need for the money. One is the caseload study. The proposal that we put out called for payment in six installments because we wanted to spread it out over a couple of fiscal years.

Of that \$90,000 we were thinking of shifting \$60,000 toward the caseload study which would give us the money we need to pay for it and we'll know by the end of the day today who will be awarded that project. That would leave \$30,000 which we need for the ARMICS project. We have to get someone from the outside with the expertise to do all of the ARMICS requirements for us.

We had John Vance here temporarily who put together a plan of action for us but we're now in the process of looking at the lists of people who have been recommended and getting someone in here to do that.

Mr. Johnson went on to say that by using that \$90,000 this year when we know we'll need it; we can fully fund the caseload study for this year and we believe get the ARMICS done. It's just a shifting of the money.

Ms. Still reported that there might have to be some mid-year adjustments and we may need to make some changes. One thing would be the central appropriations transfers that come from the department of planning and budget. We estimated what those would be for this year and we really don't know the exact amount. Once we know the exact amount she would like to be able to make those adjustments accordingly.

Judge Hanson asked if any recommendations made by the Commission would need to include that and Mr. Johnson advised we've always had to make adjustments mid-year.

Mr. Johnson asked Ms. Still if all the paperwork had been done for the \$3 million to be taken back from us. She replied, yes and has projected what we should end the fiscal year with which she believes will be around \$400,000. So we will need to supplement the budget with the money that we have from carryforward and for the central appropriations transfers that are yet to be done.

Mr. Johnson said that's \$400,000 compared to several million we've had at the end of the last few fiscal years.

Ms. Still went on to report that part of that reduction is related to pre-paying some of the expenses in this fiscal year and next year we will try to pre-pay those same expenses so there will always be a line item in the budget. We pre-pay the postage; we plan to pre-pay the rent and also plan to pre-pay the State Bar dues. This is typical. She added that insurance is also included.

Mr. Johnson added that we will continue to try to pre-pay those items that can be pre-paid because it takes some of the pressure off the budget.

Mr. Doss asked Ms. Still if the \$400,000 was going to grow, essentially the way it did previously when it got up to \$3 million. She responded, no, she doesn't anticipate that happening again because it was related to opening the Norfolk office in 2003 and the four offices in 2004 and not being able to fill the positions and not being able to get office space that was needed. All of that created savings which was almost \$4 million. She went on to say that we won't need to worry about carryforward to that level.

Ms. Geiger added that the Arlington office has moved into their new space.

Mr. Johnson said that in one year the Arlington office, alone, generated about \$800,000. They were staffed at about twenty-two to twenty-three people but only hired fourteen because they were in temporary space.

Mr. Johnson went on to say that when the pay increases take effect in November we won't have the twenty-seven percent turnover. And since the announcement of the increase he hasn't signed nearly as many resignations as he has in the past. He believes it has already had an impact.

Mr. Johnson said one other thing about Arlington is that the County of Arlington is paying, for the next five years, \$15,000 towards their rent because it's so difficult to find space there. Without that \$15,000 the space was about \$34 a foot. Put that in contrast with \$7 in Danville. That at least got it down to near the budgeted amount of around \$30 a foot. So that was really helpful. The County really wanted us in there.

Ms. Still reported that we should be receiving, if we haven't already, the \$15,000 that was due December 2006. Since the Arlington office hadn't moved at that time, they

delayed the payment and are in the process of paying that to us now. They will pay once a year for five years.

Ms. Still went on to say that would be revenue to us; it's not a reduction in the expenditures so we're treating that as a revenue line item.

Mr. Johnson said that the Arlington office, by square foot costs, is the most expensive office.

Ms. Wallace asked in terms of the FY08 budget vs. the FY07 budget were there other areas of significant increase.

Ms. Still responded that there isn't much left once salaries and fringe benefits are paid and replied that no there wasn't a very significant change in any of the other expenditure categories.

Mr. Johnson added that it's shifting money around more than anything.

Ms. Still added that some budgets increased in the area of start up costs with furniture and equipment for new employees, but is only related to the start up of new positions and once the positions are filled that will disappear.

Karl Doss made a motion to recommend to the Full Commission that the budget for FY08 and the figures contained therein be approved.

Maria Jankowski seconded the motion.

The motion carried unanimously.

There was no further discussion.

Karl Doss moved to adjourn the meeting.

Maria Jankowski seconded the motion.

The meeting adjourned at 12:35pm.

Respectively Submitted:

Approved By:

Diane Z. Pearson, Administrative Assistant

David J. Johnson, Executive Director